

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re	)	Case No. 06-25243-C-7
	)	
DOUGLAS E. SHUCK and	)	MC No. JMS-1
LESLIE E. SHUCK	)	
	)	
Debtors.	)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
ON MOTION FOR RELIEF FROM AUTOMATIC STAY NOT INTENDED FOR  
PUBLICATION**

These findings of fact and conclusions of law, which are not intended for publication, are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtors filed their voluntary chapter 7 petition on

1 December 8, 2006. They scheduled real property commonly known  
2 as 9243 Chianti Way, Elk Grove, CA 95624 ("property") as  
3 property of the estate. The first meeting of creditors was  
4 held on January 16, 2007. The chapter 7 trustee filed a report  
5 finding that there is no property available for distribution  
6 from the estate over and above that exempted by the debtors.  
7 Debtors were discharged from all dischargeable debts on March  
8 21, 2007.

9 On March 19, 2007, Chase Home Finance ("movant") filed a  
10 motion, notice, and declaration requesting that this court  
11 vacate the automatic stay to permit movant to foreclose upon  
12 the property. The fair market value of the property is  
13 approximately \$342,000.00. Movant has a lien on the property  
14 in the approximate amount of \$285,348.19. There are other  
15 liens against the property in the approximate amount of  
16 \$23,159.00. Debtors filed a response to the motion on March  
17 22, 2007, which stated that they have no basis to oppose the  
18 motion.

19 No opposition to the motion was filed within the time  
20 prescribed by Local Bankruptcy Rule 9014-1(f)(1). The parties  
21 have consented to taking evidence by affidavit and have not  
22 demonstrated that there is any disputed material factual issue.  
23 See L. Bankr. R. 9014-1(f)(1). The evidentiary record is  
24 closed. Id.

25 Upon review of the record, the court determined that  
26 the written record was adequate and that no oral argument is  
27 necessary.  
28

Conclusions of Law


The automatic stay of acts against debtor in personam expires when the debtor is granted a discharge. 11 U.S.C. § 362(c)(2)(C). Acts against property of the estate remain stayed until the earliest of the time when the bankruptcy case is closed, dismissed, or the property ceases to be property of the estate. 11 U.S.C. § 362(c). The automatic stay may be terminated earlier if debtor fails to protect the secured party's interest adequately, § 362(d)(1), and, with respect to a stay of an act against property, debtor does not have equity in the property, § 362(d)(2)(A), and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2)(B). The issue of whether the property is necessary to an effective reorganization is not considered in a chapter 7 case because no reorganization is contemplated in a chapter 7 case.

Although the debtors appear to have equity in the property, since the debtors were granted a discharge, the automatic stay has expired as to the debtors. Thus, the motion insofar as it is directed at the interest of the debtors is moot and will be denied.

However, the motion will be granted as to the interest of the trustee.

An appropriate order will issue.

Dated: April 27, 2007



UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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Dated: 4/30/07

  
Deputy Clerk